

REMARKS

Claims 1-17 remain pending in this application. Further reconsideration is requested.

Premature Finality

The finality of the outstanding Office action is respectfully submitted to be premature in view of the new ground of rejection of claim 6 as being anticipated by Babson et al. of record. It is not apparent that any amendment to claim 6 necessitated this new ground of rejection. Accordingly, withdrawal of the finality of the outstanding Office action is requested.

Drawing Correction/Objections

Fig. 2 is amended to include a reference numeral 3a identifying the originally disclosed plurality of vessel receptacles on belt 3. The remaining objections to the drawings are traversed.

In particular, claim 1 was amended to eliminate recitation of a "transfer device." Accordingly, because that feature was cancelled from the claims, it is not required to be shown in the drawings. Withdrawal of this ground of objection is requested.

The "plurality of vessel receptacles" recited in claim 10, is in fact shown in Fig. 2 as originally filed, wherein it is seen that belt 3 includes a plurality of vessel receptacles, each of which is adapted to receive a vessel, such as vessel 5 as shown. The specification and Fig. 2 have been amended to more explicitly point out the illustration of this feature in the drawings as originally filed. As such, no new matter is added by such clarification. Accordingly, withdrawal of this ground of objection also is requested.

Specification Objection

The objection to the specification as failing to provide proper antecedent basis for the claimed subject matter is traversed. Contrary to the assertion in the Office action, the specification as originally filed discloses a "transport device" in paragraphs 0014 and 0015 of the published application. However, the specification has been amended as suggested, to clarify that the terms "device" and "mechanism" are for all intents and purposes equivalent as they are merely descriptors of the same disclosed component.

Similarly, the "plurality of vessel receptacles" as originally claimed finds support from Fig. 2, which clearly illustrates the plurality of receptacles on belt 3, which receive

vessels such as vessel 5 as shown. However, the specification has been amended to explicitly point out the vessel receptacles. Accordingly, withdrawal of the objection to the specification is requested.

35 U.S.C. § 112 Rejection

The rejection of claims 10 and 11 as being indefinite is traversed. Claims 10 and 11 accurately set forth subject matter regarded as the invention. Anyone skilled in the art reading claims 10 and 11 would understand what is meant by the term "plurality of vessel receptacles" as set forth therein. Namely, as shown in Fig. 2 and described in the specification, the belt 3 receives a plurality of vessels 5. Each of the vessel receptacles that is capable of receiving such a vessel is clearly illustrated in Fig. 2. Consequently, the claims are not indefinite as alleged as there is no uncertainty or confusion as to what is meant by the term "plurality of vessel receptacles." Withdrawal of this ground of rejection is requested.

35 U.S.C. § 102 Rejection

The rejection of claims 1-17 as being anticipated by Babson et al., U.S. Patent No. 5,885,529 of record ("Babson"), is respectfully traversed. As previously explained, Babson (which is incorporated by reference into the present application at page 1 of the specification), fails to anticipate any of claims 1-17 for the same reasons as explained in the last response with respect to the now withdrawn Ammann et al. reference.

In particular, Babson fails to disclose a read station that is capable of rotating a transferred vessel from an entry position to a read position, where radiant energy emanating from the read station is detected by a detector, independently of motion of a plurality of vessels through a defined path as transported by a transport device, as recited in claim 1.

As explained in the specification, automated immunoassay analyzers as disclosed by Babson have traditionally performed testing of samples in a serial manner. That is, a sample is presented to the analyzer and it progresses step by step through the various processes until completion. While this first sample is progressing through the analyzer, all other samples follow. That is, there is a single path through currently available analyzers. Once the sample reaches the luminometer subsystem, it is then read using a detection mechanism while on the transportation element. This means the readings

must be performed in a serial fashion on a first come first serve basis. This is what is disclosed in Fig. 2A of Babson. As disclosed, luminometer chain 215a picks up vessels from wash station 214 and transports them to reading station 216, where photometric reading of the reagent in the vessels is read by photomultiplier tube 216a, one at a time in a serial fashion, after which the vessel and its contents are moved by the chain 215a to waste.

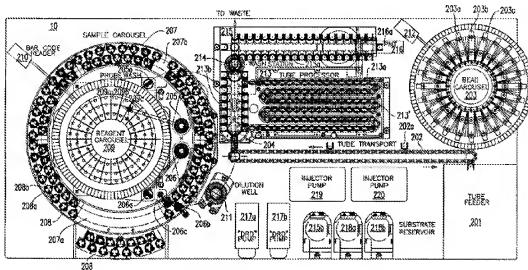


FIG. 2A

Contrary to the position taken in the Office action, Babson fails to disclose a read station rotatable between an entry position and a read position. In fact, the Office action itself recognizes that the only movable mechanism is the luminometer chain 215a. The read station 216 is stationary and does not rotate at all. The Office action apparently attempts to interpret the chain 215a as somehow being part of the read station (which it clearly is not as disclosed by Babson). Further, such interpretation of the claim language is inconsistent with the present specification, which distinguishes between read station 2 and transport belt 3, and therefore is outside the broadest reasonable standard of claim interpretation that must be used in examination.


However, such claim interpretation also is improper because it fails to consider the language of claim 1 as a whole. That is, claim 1 not only requires a rotatable read station, but also requires a transport device for transferring one of the plurality of vessels into the read station at the entry position thereof. The chain 213b does not

transport vessels into the read station 216, but instead transports vessels from the end back to the beginning of serpentine channel 213' (see col. 8, ll. 4-6). Babson further discloses that if a vessel needs to be moved to wash station 214, it is shuttled out of tube processor 213 and picked up by a separate "circular chain" to be moved to wash station 214 (see col. 8, ll. 6-10). Thus, chain 213b does not transfer vessels into a read station as claimed.

Conclusion

In view of the foregoing, claims 1-17 are submitted to be patentable over the prior art Babson analyzer. Favorable reconsideration of this application and the issuance of a Notice of Allowance are earnestly solicited.

Please charge any fee or credit any overpayment pursuant to 37 CFR 1.16 or 1.17 to Novak Druce Deposit Account No. 14-1437.

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